

# ARS □ CSREES □ ERS □ NASS

## *Policies and Procedures*

***Title:*** ARS Construction Program Appropriation Authorities and Limitations

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This DIRECTIVE defines the various ARS construction programs, outlines the construction authorities and limitations contained in the annual ARS appropriation and states policy and procedures regarding those costs chargeable to the limitations. Because the changes are extensive, the locations of specific changes are not shown.

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## **1. ABBREVIATIONS**

- AE - Architectural-Engineering
- ARMS - ARS Resource Management Plan
- ARS - Agricultural Research Service
- FAR - Federal Acquisition Regulations
- FCMD - Facilities Construction Management Division
- GSD - General Services Division
- HPRL - High Priority Requirements Listing
- NPS - National Program Staff
- USC - United States Code

## **2. BACKGROUND**

7 USC 2250 authorizes the Department of Agriculture to construct, alter, and repair such buildings and other public improvements as may be necessary to carry out its authorized work provided; that no building or improvement shall be constructed or altered unless provision is made therefore in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein. The annual ARS appropriation provisions concerning construction authorities and limitations may vary with the passage of each annual ARS appropriation. Accordingly the applicable appropriation language must be checked on a case-by-case basis before obligating any funds. For the purpose of defining terms and implementing general procedures that are likely to be carried over in future fiscal years. The ARS annual appropriation is outlined as follows:

- Appropriations hereunder shall be available pursuant to 7 USC 2250 for construction, alteration, and repair of buildings and improvements but unless otherwise provided the cost of constructing any one building shall not exceed \$XXX,XXX<sup>1</sup> except for ten small buildings to be constructed or improved at a cost not to exceed \$XXX,XXX<sup>1</sup>. If two of these buildings are to be constructed at one Location at cost not to exceed the limitation for each, they can be connected for the purpose of sharing a common mechanical and electrical physical plant or services. The cost of constructing a greenhouse or a headhouse shall not exceed \$XXX,XXX<sup>1</sup>.
- The cost of altering any one building shall not exceed 10 percent of the current replacement value of the building or \$XXX,XXX<sup>1</sup> whichever is greater. Provided further that the limitations on alterations contained in the

Act shall not apply to a total of \$XXX,XXX<sup>1</sup> for facilities at Beltsville, Maryland.

<sup>1</sup> The amount of the limitation is in accordance with the applicable annual ARS appropriation.

Provided further that the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 USC 113a).

- All AE services, construction, fixed equipment, utility systems, site improvements and related costs necessary to providing a complete and usable facility are chargeable to the limitations specified herein.
- Further, Congress sometimes appropriates additional amounts for "acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities" under the Buildings and Facilities heading.

### 3. ARS CONSTRUCTION PROGRAM DEFINITIONS

There are 8 construction programs within ARS. Each construction program is described below:

**Major Construction:** Major construction is a facility project that is estimated to cost \$1 million or more. Since the costs of such projects exceed the construction limitations above, each major project must be funded from an appropriation that is made available specifically for such purposes. ARS may not augment a specific appropriation unless authorized by statute. DIRECTIVE 242.4 (Major Facilities Construction Manual) provides detailed policy on project implementation.

**Repair and Maintenance (R&M):** The R&M Program is specifically intended to improve ARS facilities within 6 guidelines: protection of life, protection of property, implementation of mandated regulations, compliance with building codes, more effective space utilization, and implementation of energy conservation. The definition of repair as customarily applied to ARS facilities and buildings is the restoration and repair of components of an existing facility to a condition substantially equivalent to its original state and efficiency with the repair work complying with the requirements contained in the current applicable codes and standards. Typical examples of this type work are:

- HVAC/Electrical/Plumbing System Replacement due to age

- Roof Replacement/Building Envelope Repair/Maintenance
- Site Utility System Replacement/Repair/Maintenance
- Fire Protection Installation/Replacement
- Fume Hood Replacement/Modification to Correct Air Flow Deficiency
- Road Paving/Site Pedestrian and Vehicular Circulation/ Correct Site Drain

The R&M Program is a budget line item which is submitted annually to Congress as part of the ARS budget. This is a national program managed for ARS by Headquarters and implemented by each Area and FCMD. The Area submits R&M projects to headquarters for funding consideration via ARMS/HPRL.

**Ten Small Buildings Authorization:** ARS usually is authorized annually to design and construct or improve ten small buildings not-to-exceed \$XXX,XXX<sup>1</sup> per new stand alone building or an additional wing/ additional building physically attached to an ARS existing building to further enhance, pursue, and conduct the immediate research program needs.

This is only an authorization. The funds to construct or improve each Agency approved building must be funded by the area or requested via ARMS/HPRL.

**Headhouse/Greenhouse:** ARS is authorized to design and construct an unlimited number of greenhouses, or headhouses not-to-exceed \$XXX,XXX<sup>1</sup> per project in a fiscal year. A Headhouse is a building constructed at the end of a greenhouse to support the research conducted in the greenhouse. Examples of what a headhouse may include are listed below:

- Space for mechanical equipment and utility services.
- Soil handling and potting rooms.
- Storage for pots, flats, plant cages, bags, or baskets.
- Laboratories to support research performed in greenhouses.
- Growth chambers

- Cold rooms
- Hot boxes
- Offices to support greenhouse work
- Locker rooms

<sup>1</sup> The amount of the limitation is in accordance with the applicable annual ARS appropriation.

- Showers
- Lavatories

The funding mechanism is identical to the procedure for the Ten Small Buildings program.

**Unlimited Small Building:** ARS usually is authorized annually to design and construct an unlimited number of small buildings or an additional wing/additional building physically attached to an existing ARS building with the total expenditures for any one building not-to-exceed \$XXX,XXX<sup>1</sup> to further enhance, pursue, and conduct the immediate research program needs. Examples are: chemical storage, animal shelters, other storage type structure. Due to the dollar value, the area or the location should identify funding from base funds for this construction program.

**Ten Percent Alteration or \$XXX,XXX<sup>1</sup> Whichever is Greater Limitation:** ARS is authorized to alter any one ARS building not-to-exceed 10 percent of the current replacement value or \$XXX,XXX<sup>1</sup>, whichever is greater.

- **An Alteration** is a change or substitution **within** the interior limits of an existing structure to include remodeling or renovating existing space, converting vacant interior building space to usable space, installation of an elevator, change in functional use and related work. Normally, an alteration involves work inside the walls of an existing building. However, an alteration can consist of work outside the building if such work (1) does not expand the usable square feet of the building; (2) becomes an integral part of the existing building; and (3) does not destroy its identity; for instance, an outside elevator, fire escape, or loading dock.

- Other examples are gutting laboratories, installing new laboratory furniture. The Area can request funding consideration from Headquarters via ARMS/HPRL.
- **Replacement Value** is the cost of construction, site replacement/restoration of existing site and relocation of personnel and equipment of a facility equivalent to the building proposed for alteration, but built with modern materials and according to current standards, design and layout.

**National Facility Management Planning (NFMP):** National Facility Management Planning is an amalgamation of the Ten Percent Alteration and R&M construction

1 The amount of the limitation is in accordance with the applicable annual ARS appropriation.

programs to enhance deteriorating facilities (utility systems upgrade) on a large scale basis, i.e., million dollar packages at priority research locations identified by NPS and approved by the Administrator. Because such projects involve the use of R&M funds, which are not subject to a statutory limitation, and alterations, which are, each element of the work must be classified appropriately and the costs must be charged properly to ensure that there is no violation of the statutory limitation.

**Miscellaneous Construction:** Miscellaneous construction is NEW construction, not repair or replacement, such as roads, dams, bridges, wells, fences, feed lots, irrigation systems and windmills.

#### 4. POLICY

It is in the policy of ARS that the definitions reflected in Section 3 above will be used to determine which appropriation provision is applicable to an individual project. The appropriation authorizations provide only the authority to perform design and construction work; they do not provide specific or additional funding.

The appropriation limitations generally apply only to construction work related to buildings. The limitations do not apply to standalone construction requirements such as fences, sidewalks, parking lots, substations, transformers, steam tunnels and other similar projects.

The dollar limitations attached to the various appropriation authorizations include the cost of all services and materials that normally would be acquired by contract that are reasonable and necessary to construct, alter, or improve buildings including design, fixed equipment, utility systems, site development and

other related costs necessary to provide a complete and usable facility. The dollar limitations do not apply to administrative and/or monitoring costs such as design review, bid phase services, and the like that are performed by ARS employees.

Regardless of the nature of the construction program, i.e., major, 10 small buildings, unlimited small building, headhouse/greenhouse, 10 percent alteration, repair and maintenance, national facility management planning, miscellaneous construction, ARS has the duty and responsibility to exercise necessary and prudent administration of appropriated funds for facility planning and construction to support research programs in accordance with existing legislation and the annual Congressional appropriation process. Appropriated funds can only be used to house ARS programs and employees and for ARS cooperator programs and employees that are directly related to Federal activities.

ARS will construct buildings and facilities only on land in which ARS has acquired an appropriate interest, as determined by the GSD and the Area.

Design contracts will not be awarded until the Agency has first acquired a leasehold or fee simple interest as determined by GSD and the Area Office.

## **5. LIMITATIONS AND USABLE END PRODUCTS**

Since ARS appropriations are enacted on an annual basis, the limitations begin to apply when planning and design activity occurs. For instance, in the ten small buildings construction program, planning and design commits the slot allocation. Planning and designing on a building in one fiscal year also establishes the monetary limitation on the total project cost even though the construction contract award does not occur until a subsequent fiscal year.

All costs associated and incurred as part of a project, apply to this cost limitation for that specific authority. The small building (ten small buildings and unlimited small buildings) headhouse/greenhouse and the ten percent alteration authorizations and corresponding limitations cannot be combined for use on the same project (except as noted in Section 2). For instance, it is not permissible to use the small building authority to add a wing to a building and use the alteration authority to convert the vacant interior space to usable space.



The appropriation statutes, specifically 41 USC 11, require that no contract or purchase shall be made unless it is under an appropriation adequate to its fulfillment. This mandates that the expenditure of an appropriation will result in an end product (facility) which can be used for the intended purpose. Careful early planning, program development, and detailed cost estimating (properly escalated) must take place to comply with statutory requirements that an obligation of funds will produce a usable product.

Such an end product must include provisions for the necessary utilities, such as heat, light, power, ventilation, and air conditioning and be operable. It must contain all the necessary built-in equipment, cabinets, benches, and other items permanently attached to the building and capitalized as part of the building or structure. Such an end product may **exclude** the procurement and installation of personal property and the transfer of existing projects and personnel and **still** constitute a usable facility.

It is not feasible to build structures on a “piecemeal” basis. Invariably, the construction work completed in a prior phase will have to be modified or, in some cases, redone to accommodate the work done at a later date. This is not only costly, but causes delays, warranty problems, and difficulties in making sure that new work is compatible with what is existing.

Further partial facility completion with the intent to execute additional construction contracts to make it usable in future years is prohibited. The need in this example is for a specific requirement, and unless sufficient funds are available to fulfill the need when the commitment is made, the purchase cannot take place. To do otherwise violates the appropriation statutes by obligating funds for something that does not represent the bona fide need of the Agency. The bona fide need of ARS is the completed facility.

## **6. RESPONSIBILITIES**

### **Area Engineer and Real Property Officials:**

- Determine the current replacement values of those buildings to be altered using the 10 percent alteration limitation.
- Determine whether a particular project can be accomplished under an applicable appropriation limitation.

**Area Administrative Officer Will:**

- Assure that those projects submitted to FCMD with requests for the building authorizations each fiscal year fall within the definitions as stated in this DIRECTIVE.
- Assure that projects accomplished under the 10 percent alteration limitation meet the definition of an alteration as stated in this DIRECTIVE.
- Assure that all projects accomplished under any of the other construction programs meet the definition of a usable facility as stated in this DIRECTIVE.

**FCMD**

- Review and confirm that a project can be properly designed and constructed under the applicable appropriation authority and limitation.

## **Acquisition Officials With AE and Construction Contracting Authority Will:**

- Ensure that AE and construction contract award files are properly documented to show the appropriation authority and limitation applicable for each project.

## **7. PROCEDURE - DETERMINATION OF COST CHARGEABLE**

**Responsible Official:** Area Engineer and Real Property Officials

- Develop a preliminary cost estimate from design criteria or a final cost estimate from completed specifications and drawings as required by FAR 36.605 and FAR 36.203 to determine if the project can be accomplished within an available appropriation limitation.
- If the cost estimate shows the project cannot be accomplished within existing limitations, advise the program official who requested the project. Provide suggestions or alternatives as to how the project scope can be changed to permit accomplishment under an existing limitation.
- Provide to Contracting Officials the current replacement values of those buildings to be altered using the 10 percent alteration authority. Appropriate documentation, consistent with the size of individual projects, must be provided to reflect how the replacement values were computed.

## **8. PROCEDURE - DOCUMENTATION OF CONTRACT FILES**

**Responsible Official:** Acquisition Officials With AE and Construction Contracting Authority

- Prepare a memorandum to the file documenting (1) the construction authorization utilized; (2) the monetary limitation; and (3) the dollar amounts of all contract obligations against the limitation.

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